

Senate File 2378 - Introduced

SENATE FILE _____
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 3164)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to open records and public meetings and providing
2 an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5233SV 82
5 rh/rj/l4

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1 1 Section 1. Section 8A.341, subsection 2, Code 2007, is
1 2 amended to read as follows:
1 3 2. If money is appropriated for this purpose, by November
1 4 1 of each year supply a report which contains the name,
1 5 gender, county, or city of residence when possible, official
1 6 title, salary received during the previous fiscal year, base
1 7 salary as computed on July 1 of the current fiscal year, and
1 8 traveling and subsistence expense of the personnel of each of
1 9 the departments, boards, and commissions of the state
1 10 government except personnel who receive an annual salary of
1 11 less than one thousand dollars. The number of the personnel
1 12 and the total amount received by them shall be shown for each
1 13 department in the report. All employees who have drawn
1 14 salaries, fees, or expense allowances from more than one
1 15 department or subdivision shall be listed separately under the
1 16 proper departmental heading. On the request of the director,
1 17 the head of each department, board, or commission shall
1 18 furnish the data covering that agency. The report shall be
1 19 distributed upon request without charge in an electronic
1 20 medium to each caucus of the general assembly, the legislative
1 21 services agency, the chief clerk of the house of
1 22 representatives, and the secretary of the senate. Copies of
1 23 the report shall be made available to other persons in an
1 24 electronic medium upon payment of a fee, which shall not
1 25 exceed the cost of providing the copy of the report. Sections
1 26 22.2 through ~~22.6~~ 22.5 apply to the report. All funds from
1 27 the sale of the report shall be deposited in the printing
1 28 revolving fund established in section 8A.345.

1 29 Sec. 2. Section 8E.202, subsection 1, unnumbered paragraph
1 30 1, Code 2007, is amended to read as follows:

1 31 The department and each agency shall provide for the widest
1 32 possible dissemination of information between agencies and the
1 33 public relating to the enterprise strategic plan and agency
1 34 strategic plans, including but not limited to internet access.
1 35 This section does not require the department or an agency to
2 1 release information which is classified as a confidential
2 2 record under this Code, ~~including but not limited to section~~
~~2 3 22.7.~~

2 4 Sec. 3. Section 8E.202, subsection 3, Code 2007, is
2 5 amended to read as follows:

2 6 3. A record which is confidential under this Code
~~2 7 including but not limited to section 22.7,~~ shall not be
2 8 released to the public under this section.

2 9 Sec. 4. Section 10B.5, subsection 2, Code 2007, is amended
2 10 to read as follows:

2 11 2. Information provided in reports required in this
2 12 chapter is ~~a confidential~~ an optional public record as
2 13 provided in section 22.7. The attorney general may have
2 14 access to the reports, and may use information in the reports
2 15 in any action to enforce state law, including but not limited
2 16 to chapters 9H, 9I, and 10C. The reports shall be made
2 17 available to members of the general assembly and appropriate
2 18 committees of the general assembly in order to determine the

2 19 extent that agricultural land is held in this state by
2 20 corporations and other business and foreign entities and the
2 21 effect of such land ownership upon the economy of this state.
2 22 The secretary of state shall assist any committee of the
2 23 general assembly studying these issues.
2 24 Sec. 5. Section 21.2, subsection 1, Code 2007, is amended
2 25 by adding the following new paragraph:
2 26 NEW PARAGRAPH. i. An entity eligible to exercise
2 27 tax-exempt bonding authority under chapter 7C, including a
2 28 nonprofit tax-exempt bonding authority under chapter 7C
2 29 designated by the state to serve as a secondary market for
2 30 student loans and a nonprofit tax-exempt bonding authority
2 31 under chapter 7C whose board of directors is appointed by the
2 32 governor.
2 33 Sec. 6. Section 21.2, subsection 2, Code 2007, is amended
2 34 to read as follows:
2 35 2. a. "Meeting" means a gathering in person or by
3 1 electronic means, formal or informal, of a majority of the
3 2 members of a governmental body where there is deliberation or
3 3 action upon any matter within the scope of the governmental
3 4 body's policy-making duties. A "meeting" includes the
3 5 calculated use of a series of communications, each between
3 6 less than a majority of the members of a governmental body or
3 7 their personal intermediaries, that is intended to reach and
3 8 does in fact reach a majority of the members of the
3 9 governmental body and that is intended to discuss and develop
3 10 a collective final decision of a majority outside of a meeting
3 11 with respect to specific action to be taken by the majority at
3 12 a meeting.
3 13 b. Meetings shall A "meeting" does not include any of the
3 14 following:
3 15 (1) A gathering of members of a governmental body for
3 16 purely ministerial or social purposes when there is no
3 17 discussion of policy or no intent to avoid the purposes of
3 18 this chapter.
3 19 (2) Written electronic communications by one or more
3 20 members of a governmental body or by its chief executive
3 21 officer that are ordinarily preserved and are accessible and
3 22 that are sent to a majority of the members of the governmental
3 23 body, or a series of such written electronic communications
3 24 each sent only to a minority of the members of the
3 25 governmental body but that in the aggregate are sent to a
3 26 majority of its members that do both of the following:
3 27 (a) Concern a particular matter within the scope of the
3 28 governmental body's policy-making duties.
3 29 (b) Would otherwise constitute a meeting.
3 30 However, this exclusion only applies if the written
3 31 electronic communications, to the extent such communications
3 32 are not exempt from disclosure pursuant to section 22.7 or
3 33 another statute, are either posted on the governmental body's
3 34 internet site or public bulletin board prior to the next
3 35 regular meeting or copies are made available for public
4 1 inspection at the governmental body's next regular meeting.
4 2 If a special meeting is held on the subject matter of the
4 3 communications before the next regular meeting, the
4 4 communications shall be posted prior to the special meeting or
4 5 made available for public inspection at that meeting.
4 6 Sec. 7. Section 21.4, subsections 1 and 3, Code 2007, are
4 7 amended to read as follows:
4 8 1. ~~A~~ Except as provided in subsection 3, a governmental
4 9 body, except township trustees, shall give notice of the time,
4 10 date, and place of each meeting including a reconvened meeting
4 11 of the governmental body, and its the tentative agenda of the
4 12 meeting, in a manner reasonably calculated to apprise the
4 13 public of that information. Reasonable notice shall include
4 14 advising the news media who have filed a request for notice
4 15 with the governmental body and posting the notice on a
4 16 bulletin board or other prominent place which is easily
4 17 accessible to the public and clearly designated for that
4 18 purpose at the principal office of the body holding the
4 19 meeting, or if no such office exists, at the building in which
4 20 the meeting is to be held.
4 21 3. Subsection 1 does not apply to any of the following:
4 22 a. A meeting reconvened within four hours of the start of
4 23 its recess, where an announcement of the time, date, and place
4 24 of the reconvened meeting is made at the original meeting in
4 25 open session and recorded in the minutes of the meeting and
4 26 there is no change in the agenda.
4 27 b. A meeting held by a formally constituted subunit of a
4 28 parent governmental body may conduct a meeting without notice
4 29 as required by this section during a lawful meeting of the

4 30 parent governmental body, or during a recess in that meeting
4 31 of up to four hours, or a meeting of that subunit immediately
4 32 following that the meeting of the parent governmental body, if
4 33 the meeting of the that subunit is publicly announced in open
4 34 session at the parent meeting and the subject of the meeting
4 35 reasonably coincides with the subjects discussed or acted upon
5 1 by the parent governmental body.

5 2 Sec. 8. Section 21.5, subsection 1, paragraph k, Code
5 3 Supplement 2007, is amended to read as follows:

5 4 k. To discuss information contained in records in the
5 5 custody of a governmental body that are ~~confidential~~ optional
5 6 public records pursuant to section 22.7, subsection 50.

5 7 Sec. 9. Section 21.5, subsection 4, Code Supplement 2007,
5 8 is amended to read as follows:

5 9 4. A governmental body shall keep detailed minutes of all
5 10 discussion, persons present, and action occurring at a closed
5 11 session, and shall also tape record all of the closed session.
5 12 The detailed minutes and tape recording of a closed session
5 13 shall be sealed and shall not be public records open to public
5 14 inspection. However, upon order of the court in an action to
5 15 enforce this chapter, the detailed minutes and tape recording
5 16 shall be unsealed and examined by the court in camera. The
5 17 court shall then determine what part, if any, of the minutes
5 18 should be disclosed to the party seeking enforcement of this
5 19 chapter for use in that enforcement proceeding. In
5 20 determining whether any portion of the minutes or recording
5 21 shall be disclosed to such a party for this purpose, the court
5 22 shall weigh the prejudicial effects to the public interest of
5 23 the disclosure of any portion of the minutes or recording in
5 24 question, against its probative value as evidence in an
5 25 enforcement proceeding. After such a determination, the court
5 26 may permit inspection and use of all or portions of the
5 27 detailed minutes and tape recording by the party seeking
5 28 enforcement of this chapter. A governmental body shall keep
5 29 the detailed minutes and tape recording of any closed session
5 30 for a period of at least one year from the date of that
5 31 meeting, except as otherwise required by law.

5 32 Sec. 10. Section 21.6, subsection 3, paragraph a, Code
5 33 2007, is amended to read as follows:

5 34 a. Shall assess each member of the governmental body who
5 35 participated in its violation damages in the amount of not
6 1 more than two thousand five hundred dollars ~~not and not less~~
6 2 than one hundred thousand dollars. These damages shall be
6 3 paid by the court imposing it to the state of Iowa, if the
6 4 body in question is a state governmental body, or to the local
6 5 government involved if the body in question is a local
6 6 governmental body. A member of a governmental body found to
6 7 have violated this chapter shall not be assessed such damages
6 8 if that member proves that the member did any of the
6 9 following:

6 10 (1) Voted against the closed session.

6 11 (2) Had good reason to believe and in good faith believed
6 12 facts which, if true, would have indicated compliance with all
6 13 the requirements of this chapter.

6 14 (3) Reasonably relied upon a decision of a court or a
6 15 formal opinion of the Iowa public information board, the
6 16 attorney general, or the attorney for the governmental body.

6 17 Sec. 11. Section 21.6, subsection 3, paragraph d, Code
6 18 2007, is amended to read as follows:

6 19 d. Shall issue an order removing a member of a
6 20 governmental body from office if that member has engaged in a
6 21 prior violation of this chapter for which damages were
6 22 assessed against the member during the member's term. In
6 23 making this determination, the court shall recognize

6 24 violations for which damages were assessed by the Iowa public
6 25 information board created in section 23.3.

6 26 Sec. 12. Section 22.1, Code 2007, is amended to read as
6 27 follows:

6 28 22.1 DEFINITIONS.

6 29 1. "Confidential record" means a government record
6 30 designated by statute as unavailable for examination and
6 31 copying by members of the public.

6 32 2. The term "government "Government body" means this
6 33 state, or any county, city, township, school corporation,
6 34 political subdivision, tax-supported district, nonprofit
6 35 corporation other than a fair conducting a fair event as
7 1 provided in chapter 174, whose facilities or indebtedness are
7 2 supported in whole or in part with property tax revenue and
7 3 which is licensed to conduct pari-mutuel wagering pursuant to
7 4 chapter 99D, an entity eligible to exercise tax-exempt bonding
7 5 authority under chapter 7C, including a nonprofit tax-exempt

~~7 6 bonding authority under chapter 7C designated by the state to~~
~~7 7 serve as a secondary market for student loans and a nonprofit~~
~~7 8 tax-exempt bonding authority under chapter 7C whose board of~~
~~7 9 directors is appointed by the governor, or other entity of~~
~~7 10 this state, or any branch, department, board, bureau,~~
~~7 11 commission, council, committee, official, or officer of any of~~
~~7 12 the foregoing or any employee delegated the responsibility for~~
~~7 13 implementing the requirements of this chapter.~~

~~7 14 3. "Government record" means a record owned by, created~~
~~7 15 by, in the possession of, or under the control of, any unit,~~
~~7 16 division, or part of state or local government or the~~
~~7 17 officials or employees of such public bodies in the course of~~
~~7 18 the performance of their respective duties.~~

~~7 19 2. 4. The term "lawful "Lawful custodian" means the~~
~~7 20 government body currently in physical possession of the public~~
~~7 21 government record. The custodian of a public government~~
~~7 22 record in the physical possession of persons outside a~~
~~7 23 government body is the government body owning that government~~
~~7 24 record. The government records relating to the investment of~~
~~7 25 public funds are the property of the public body responsible~~
~~7 26 for the public funds. Each government body shall delegate to~~
~~7 27 particular officials or employees of that government body the~~
~~7 28 responsibility for implementing the requirements of this~~
~~7 29 chapter and shall publicly announce the particular officials~~
~~7 30 or employees to whom responsibility for implementing the~~
~~7 31 requirements of this chapter has been delegated. "Lawful~~
~~7 32 custodian" does not mean an automated data processing unit of~~
~~7 33 a public body if the data processing unit holds the government~~
~~7 34 records solely as the agent of another public body, nor does~~
~~7 35 it mean a unit which holds the government records of other~~

~~8 1 public bodies solely for storage.~~
~~8 2 3. As used in this chapter, "public records" includes all~~
~~8 3 records, documents, tape, or other information, stored or~~
~~8 4 preserved in any medium, of or belonging to this state or any~~
~~8 5 county, city, township, school corporation, political~~
~~8 6 subdivision, nonprofit corporation other than a fair~~
~~8 7 conducting a fair event as provided in chapter 174, whose~~
~~8 8 facilities or indebtedness are supported in whole or in part~~
~~8 9 with property tax revenue and which is licensed to conduct~~
~~8 10 pari-mutuel wagering pursuant to chapter 99D, or tax-supported~~
~~8 11 district in this state, or any branch, department, board,~~
~~8 12 bureau, commission, council, or committee of any of the~~
~~8 13 foregoing.~~

~~8 14 "Public records" also includes all records relating to the~~
~~8 15 investment of public funds including but not limited to~~
~~8 16 investment policies, instructions, trading orders, or~~
~~8 17 contracts, whether in the custody of the public body~~
~~8 18 responsible for the public funds or a fiduciary or other third~~
~~8 19 party.~~

~~8 20 5. "Optional public record" means a government record~~
~~8 21 designated by statute as unavailable for examination and~~
~~8 22 copying by members of the public unless otherwise ordered by a~~
~~8 23 court, by the lawful custodian of the records, or by another~~
~~8 24 person duly authorized to release such information.~~

~~8 25 6. "Public record" means a government record to which~~
~~8 26 members of the public have an unqualified right to examine and~~
~~8 27 copy and includes a government record not designated by~~
~~8 28 statute as either a confidential record or an optional public~~
~~8 29 record.~~

~~8 30 7. "Record" means information of every kind, nature, and~~
~~8 31 form preserved or stored in any medium including but not~~
~~8 32 limited to paper, electronic media, or film media.~~

~~8 33 Sec. 13. Section 22.2, subsection 2, Code 2007, is amended~~
~~8 34 to read as follows:~~

~~8 35 2. A government body shall not prevent the examination or~~
~~9 1 copying of a public record by contracting with a nongovernment~~
~~9 2 body to perform any of its duties or functions. A record~~
~~9 3 created by, in the possession of, or under the control of, any~~
~~9 4 nongovernment body or person, which is a direct part of the~~
~~9 5 execution or performance of duties imposed upon the~~
~~9 6 nongovernment body or person by contract with a government~~
~~9 7 body under which the nongovernment body or person performs a~~
~~9 8 function of the government body, is a government record. The~~
~~9 9 lawful custodian of such a government record is the government~~
~~9 10 body with whom the nongovernment body or person has executed~~
~~9 11 the contract.~~

~~9 12 Sec. 14. NEW SECTION. 22.2A RECORD REQUESTS == TIME~~
~~9 13 LIMITS.~~

~~9 14 1. Upon receipt of an oral or written request to examine~~
~~9 15 or copy a public record, the lawful custodian shall, if~~
~~9 16 feasible in the ordinary course of business, permit such~~

9 17 examination or copying at the time of the request. If it is
9 18 not feasible in the ordinary course of business to permit
9 19 examination or copying of the public record at the time of the
9 20 request, the lawful custodian shall immediately notify the
9 21 requester, orally or in writing, when such examination or
9 22 copying may take place, which shall be no later than five
9 23 business days from the time of the request unless there is
9 24 good cause for further delay. If further delay is necessary
9 25 because of good cause, the lawful custodian shall provide the
9 26 requester with a written statement detailing the reason or
9 27 reasons for the delay and the date by which the request will
9 28 be satisfied.

9 29 2. If the lawful custodian is in doubt as to whether the
9 30 record requested is a public record or whether the requester
9 31 should be permitted to examine or copy an optional public
9 32 record specified in section 22.7, the lawful custodian shall
9 33 make that determination within ten business days from the date
9 34 of the request. Examination or copying of the government
9 35 record shall be allowed within five business days from the
10 1 date the lawful custodian makes the decision in such
10 2 circumstances to permit examination or copying of the record
10 3 unless there is good cause for further delay in fulfilling the
10 4 request as provided in subsection 1.

10 5 3. If the lawful custodian denies a request to examine or
10 6 copy a public record, the custodian must provide the requester
10 7 at the time of the denial a written statement denying the
10 8 request and detailing the specific reason or reasons for the
10 9 denial.

10 10 4. If the lawful custodian does not fulfill a request to
10 11 examine or copy a public record within the times prescribed in
10 12 this section, the request shall be deemed denied and the
10 13 requester shall be entitled to file a complaint with the Iowa
10 14 public information board pursuant to section 23.7 or file a
10 15 lawsuit against the lawful custodian pursuant to section
10 16 22.10.

10 17 Sec. 15. Section 22.4, Code 2007, is amended to read as
10 18 follows:

10 19 22.4 HOURS WHEN AVAILABLE.

10 20 The rights of persons under this chapter may be exercised
10 21 at any time during the customary office hours of the lawful
10 22 custodian of the government records. However, if the lawful
10 23 custodian does not have customary office hours of at least
10 24 thirty hours per week, such right may be exercised at any time
10 25 from nine o'clock a.m. to noon and from one o'clock p.m. to
10 26 four o'clock p.m. Monday through Friday, excluding legal
10 27 holidays, unless the person exercising such right and the
10 28 lawful custodian agree on a different time.

10 29 Sec. 16. Section 22.7, subsection 10, Code Supplement
10 30 2007, is amended by striking the subsection.

10 31 Sec. 17. Section 22.7, subsection 11, Code Supplement
10 32 2007, is amended to read as follows:

10 33 11. Personal information in confidential personnel records
10 34 of ~~public government bodies including but not limited to~~
10 35 ~~cities, boards of supervisors and school districts relating to~~
11 1 ~~identified or identifiable individuals who are officials,~~
11 2 ~~officers, or employees of the government bodies. However, the~~
11 3 ~~following information relating to such individuals contained~~
11 4 ~~in personnel records shall be public records:~~

11 5 ~~a. The name and compensation of the individual. For~~
11 6 ~~purposes of this paragraph, "compensation" means payment of,~~
11 7 ~~or agreement to pay, any money, thing of value, or financial~~
11 8 ~~benefit conferred in return for labor or services rendered by~~
11 9 ~~an officer, employee, or other person plus the value of~~
11 10 ~~benefits including but not limited to casualty, disability,~~
11 11 ~~life, or health insurance, other health or wellness benefits,~~
11 12 ~~vacation, holiday, and sick leave, severance payments,~~
11 13 ~~retirement benefits, and deferred compensation.~~

11 14 ~~b. The date the individual was employed by the government~~
11 15 ~~body.~~

11 16 ~~c. The positions the individual holds or has held with the~~
11 17 ~~government body.~~

11 18 ~~d. The individual's qualifications for the position that~~
11 19 ~~the individual holds or has held including but not limited to~~
11 20 ~~educational background and work experience.~~

11 21 ~~e. Any final disciplinary action taken against the~~
11 22 ~~individual that resulted in the individual's discharge,~~
11 23 ~~suspension, demotion, or loss of pay.~~

11 24 Sec. 18. Section 22.7, subsection 18, Code Supplement
11 25 2007, is amended to read as follows:

11 26 18. a. Communications not required by law, rule,
11 27 procedure, or contract that are made to a government body or

11 28 to any of its employees by identified persons outside of
11 29 government, to the extent that the government body receiving
11 30 those communications from such persons outside of government
11 31 could reasonably believe that those persons would be
11 32 discouraged from making them to that government body if they
11 33 were available for general public examination. As used in
11 34 this subsection, "persons outside of government" does not
11 35 include persons or employees of persons who are communicating
12 1 with respect to a consulting or contractual relationship with
12 2 a government body or who are communicating with a government
12 3 body with whom an arrangement for compensation exists.
12 4 Notwithstanding this provision:

12 5 a. (1) The communication is a public record to the extent
12 6 that the person outside of government making that
12 7 communication consents to its treatment as a public record.

12 8 b. (2) Information contained in the communication is a
12 9 public record to the extent that it can be disclosed without
12 10 directly or indirectly indicating the identity of the person
12 11 outside of government making it or enabling others to
12 12 ascertain the identity of that person.

12 13 c. (3) Information contained in the communication is a
12 14 public record to the extent that it indicates the date, time,
12 15 specific location, and immediate facts and circumstances
12 16 surrounding the occurrence of a crime or other illegal act,
12 17 except to the extent that its disclosure would plainly and
12 18 seriously jeopardize a continuing investigation or pose a
12 19 clear and present danger to the safety of any person. In any
12 20 action challenging the failure of the lawful custodian to
12 21 disclose any particular information of the kind enumerated in
12 22 this paragraph, the burden of proof is on the lawful custodian
12 23 to demonstrate that the disclosure of that information would
12 24 jeopardize such an investigation or would pose such a clear
12 25 and present danger.

12 26 b. This subsection does not apply to information relating
12 27 to applications to a government body for employment.

12 28 Sec. 19. Section 22.7, subsections 40, 43, and 48, Code
12 29 Supplement 2007, are amended to read as follows:

12 30 40. The portion of a record request that contains an
12 31 internet protocol number ~~which identifies the computer from~~
12 32 ~~which a person requests a record, whether the person using~~
12 33 ~~such computer makes the request through the IowaAccess network~~
12 34 ~~or directly to a lawful custodian. However, such record may~~
12 35 ~~be released with the express written consent of the person~~
13 1 ~~requesting the record.~~

13 2 43. Information obtained by the commissioner of insurance
13 3 pursuant to section 502.607, subsection 2.

13 4 48. Sex offender registry records under chapter 692A-
13 5 ~~except shall only be released as provided in section 692A.13.~~

13 6 Sec. 20. Section 22.7, subsection 52, paragraphs a and c,
13 7 Code Supplement 2007, are amended to read as follows:

13 8 a. The following records relating to a charitable donation
13 9 ~~made to a foundation acting solely for the support of an~~
13 10 ~~institution governed by the state board of regents, to a~~
13 11 ~~foundation acting solely for the support of an institution~~
13 12 ~~governed by chapter 260C, to a private foundation as defined~~
13 13 ~~in section 509 of the Internal Revenue Code organized for the~~
13 14 ~~support of a government body, or to an endow Iowa qualified~~
13 15 ~~community foundation, as defined in section 15E.303, organized~~
13 16 ~~for the support of a government body:~~

13 17 (1) Portions of records that disclose a donor's or
13 18 prospective donor's personal, financial, estate planning, or
13 19 gift planning matters.

13 20 (2) Records received from a donor or prospective donor
13 21 regarding such donor's prospective gift or pledge.

13 22 (3) Records containing information about a donor or a
13 23 prospective donor in regard to the appropriateness of the
13 24 solicitation and dollar amount of the gift or pledge.

13 25 (4) Portions of records that identify a prospective donor
13 26 and that provide information on the appropriateness of the
13 27 solicitation, the form of the gift or dollar amount requested
13 28 by the solicitor, and the name of the solicitor.

13 29 (5) Portions of records disclosing the identity of a donor
13 30 or prospective donor, including the specific form of gift or
13 31 pledge that could identify a donor or prospective donor,
13 32 directly or indirectly, when such donor has requested
13 33 anonymity in connection with the gift or pledge. This
13 34 subparagraph does not apply to a gift or pledge from a
13 35 publicly held business corporation.

14 1 c. Except as provided in paragraphs "a" and "b", portions
14 2 of records relating to the receipt, holding, and disbursement
14 3 of gifts made for the benefit of regents institutions and made

14 4 through foundations established for support of regents
14 5 institutions, including but not limited to written
14 6 fund-raising policies and documents evidencing fund-raising
14 7 practices, shall be subject to this chapter. Unless otherwise
14 8 provided, the lawful custodian of all records subject to this
14 9 paragraph is the regents institution to be benefited by such
14 10 gifts.

14 11 Sec. 21. Section 22.7, subsection 55, Code Supplement
14 12 2007, is amended to read as follows:

14 13 55. An intelligence assessment and intelligence data under
14 14 chapter 692, ~~except shall only be released~~ as provided in
14 15 section 692.8A.

14 16 Sec. 22. Section 22.7, Code Supplement 2007, is amended by
14 17 adding the following new subsections:

14 18 NEW SUBSECTION. 60. PUBLIC EMPLOYMENT APPLICATIONS.

14 19 a. The identity and qualifications of an applicant for
14 20 employment by a government body if the applicant requests
14 21 anonymity in writing and the government body determines that
14 22 anonymity is necessary to induce the applicant to apply for
14 23 the employment position. Such information shall be exempt
14 24 from disclosure until an applicant is considered by the
14 25 government body to be a finalist for the position. For
14 26 purposes of this subsection, "finalist" means any applicant
14 27 who is determined to be among those who are under final
14 28 consideration for the position, and at least includes the five
14 29 most qualified applicants as determined by the recommending or
14 30 selecting authority. If there are five or fewer applicants
14 31 for the particular position, all of the applicants shall be
14 32 considered finalists for purposes of this subsection. The
14 33 identities and qualifications of the finalists shall be made
14 34 available for public inspection at least three business days
14 35 prior to a final decision.

15 1 b. Documents relating to a government body's evaluation of
15 2 the qualifications and merits of an applicant for employment
15 3 by that government body.

15 4 NEW SUBSECTION. 61. INFORMATION INVADING PERSONAL
15 5 PRIVACY.

15 6 a. Information about and linked to an identified or
15 7 identifiable person that, if disclosed to the general public,
15 8 would constitute an unwarranted or undue invasion of personal
15 9 privacy or that would present a clear and serious danger of
15 10 facilitating identity theft or other criminal activity in
15 11 relation to that person. For purposes of this subsection,
15 12 "unwarranted or undue invasion of personal privacy" means the
15 13 public disclosure of particular information about and linked
15 14 to an identified or identifiable person that is likely to
15 15 subject such person to potential harm of such person's
15 16 personal privacy interests or personal security interests that
15 17 clearly outweighs any potential benefit to the public interest
15 18 from disclosure of such information. Information about and
15 19 linked to an identified or identifiable person excluded from
15 20 public inspection by this paragraph includes but is not
15 21 limited to social security numbers, biometric data, driver's
15 22 license numbers, credit card and bank account numbers, and
15 23 personal financial data other than the compensation of a
15 24 public official or employee and any financial statements
15 25 required to be filed by a public official or public employee
15 26 to avoid a conflict of interest. For purposes of this
15 27 paragraph, "compensation" means payment of, or agreement to
15 28 pay, any money, thing of value, or financial benefit conferred
15 29 in return for labor or services rendered by an officer,
15 30 employee, or other person plus the value of benefits including
15 31 but not limited to casualty, disability, life, or health
15 32 insurance, other health or wellness benefits, vacations,
15 33 holidays, and sick leave, severance payments, retirement
15 34 benefits, and deferred compensation.

15 35 b. Information exempted from public disclosure by this
16 1 subsection does not include information about and linked to an
16 2 identified or identifiable person released by the lawful
16 3 custodian with the person's written consent or information
16 4 relating to the execution of duties by a public official or
16 5 public employee.

16 6 NEW SUBSECTION. 62. TENTATIVE, PRELIMINARY, OR DRAFT
16 7 MATERIALS. Tentative, preliminary, draft, speculative, or
16 8 research material, created prior to its final completion for
16 9 the purpose for which it is intended and in a form prior to
16 10 the form in which it is submitted for use in the final
16 11 formulation, recommendation, adoption, or execution of any
16 12 official policy or action by a public official authorized to
16 13 make such decisions for the government body. Such materials
16 14 shall be treated as a public record at the time the materials

16 15 are actually used for the final formulation, recommendation,
16 16 adoption, or execution of any official policy or action of a
16 17 government body.

16 18 NEW SUBSECTION. 63. CLOSED SESSION RECORDS. Records
16 19 containing information that would permit a governmental body
16 20 subject to chapter 21 to hold a closed session pursuant to
16 21 section 21.5 in order to avoid public disclosure of that
16 22 information.

16 23 Sec. 23. Section 22.8, subsection 1, Code 2007, is amended
16 24 to read as follows:

16 25 1. The district court may grant an injunction restraining
16 26 the examination, including copying, of a specific public
16 27 record or a narrowly drawn class of public records. A hearing
16 28 shall be held on a request for injunction upon reasonable
16 29 notice as determined by the court to persons requesting access
16 30 to the record which is the subject of the request for
16 31 injunction. It shall be the duty of the lawful custodian and
16 32 any other person seeking an injunction to ensure compliance
16 33 with the notice requirement. Such an injunction may be issued
16 34 only if the petition supported by affidavit shows and if the
16 35 court finds ~~both~~ any of the following:

17 1 a. That the examination would clearly not be in the public
17 2 interest because the potential harm to the public interest
17 3 from disclosure of the particular information involved clearly
17 4 outweighs any potential benefit to the public interest from
17 5 disclosure.

17 6 b. That the examination would substantially and
17 7 irreparably injure any person or persons because it would
17 8 invade the personal privacy of the identified subject of the
17 9 record and the harm to that person from such disclosure is not
17 10 outweighed by the public interest in its disclosure.

17 11 c. That the record at issue is not a public record.

17 12 d. That the record at issue is a record exempt from
17 13 mandatory disclosure pursuant to section 22.7 and that a
17 14 determination by the custodian to permit inspection of the
17 15 record by one or more members of the public is a violation of
17 16 law or is arbitrary, capricious, unreasonable, or an abuse of
17 17 discretion.

17 18 Sec. 24. Section 22.8, subsection 4, paragraphs c and d,
17 19 Code 2007, are amended to read as follows:

17 20 c. To determine whether the government record in question
17 21 is a public record, an optional public record, or a
17 22 confidential record.

17 23 d. To determine whether ~~a confidential~~ an optional public
17 24 record should be available for inspection and copying to the
17 25 person requesting the right to do so. A reasonable delay for
17 26 this purpose shall not exceed twenty calendar days and
17 27 ordinarily should not exceed ten business days.

17 28 Sec. 25. Section 22.10, subsection 3, paragraph b, Code
17 29 2007, is amended to read as follows:

17 30 b. Shall assess the persons who participated in its
17 31 violation damages in the amount of not more than two thousand
17 32 five hundred dollars ~~nor and not less than one hundred~~
17 33 thousand dollars. These damages shall be paid by the court
17 34 imposing them to the state of Iowa if the body in question is
17 35 a state government body, or to the local government involved
18 1 if the body in question is a local government body. A person
18 2 found to have violated this chapter shall not be assessed such
18 3 damages if that person proves that the person ~~either voted did~~
18 4 any of the following:

18 5 (1) Voted against the action violating this chapter,
18 6 refused to participate in the action violating this chapter,
18 7 or engaged in reasonable efforts under the circumstances to
18 8 resist or prevent the action in violation of this chapter ~~+~~
18 9 had.

18 10 (2) Had good reason to believe and in good faith believed
18 11 facts which, if true, would have indicated compliance with the
18 12 requirements of this chapter ~~+~~ or reasonably.

18 13 (3) Reasonably relied upon a decision of a court or ~~an~~ a
18 14 formal opinion of the Iowa public information board, the
18 15 attorney general, or the attorney for the government body.

18 16 Sec. 26. Section 22.10, subsection 3, paragraph d, Code
18 17 2007, is amended to read as follows:

18 18 d. Shall issue an order removing a person from office if
18 19 that person has engaged in a prior violation of this chapter
18 20 for which damages were assessed against the person during the
18 21 person's term. In making this determination, the court shall
18 22 recognize violations for which damages were assessed by the
18 23 Iowa public information board created in section 23.3.

18 24 Sec. 27. Section 22.10, subsection 5, Code 2007, is
18 25 amended by striking the subsection.

18 26 Sec. 28. Section 22.13, Code 2007, is amended to read as
18 27 follows:
18 28 22.13 SETTLEMENTS == ~~GOVERNMENTAL~~ GOVERNMENT BODIES.
18 29 1. A written summary of the terms of settlement, including
18 30 amounts of payments made to or through a claimant, or other
18 31 disposition of any claim for damages made against a
18 32 ~~governmental government~~ body or against an employee, officer,
18 33 or agent of a ~~governmental government~~ body, by an insurer
18 34 pursuant to a contract of liability insurance issued to the
18 35 ~~governmental government~~ body, shall be filed with the
19 1 ~~governmental government~~ body and shall be a public record.
19 2 2. ~~A final binding settlement agreement between any~~
19 3 ~~government body of this state or unit or official of such a~~
19 4 ~~government body that resolves a legal dispute between such a~~
19 5 ~~government body and another person or entity shall include a~~
19 6 ~~brief summary indicating the identity of the parties involved,~~
19 7 ~~the nature of the dispute, any underlying relevant facts that~~
19 8 ~~are agreed to by the parties and that are disputed by the~~
19 9 ~~parties, and the terms of the settlement, and shall be filed~~
19 10 ~~with the government body and shall be available for public~~
19 11 ~~inspection.~~
19 12 Sec. 29. Section 22.14, subsection 3, Code 2007, is
19 13 amended to read as follows:
19 14 3. If a fiduciary or other third party with custody of
19 15 public investment transactions records fails to produce public
19 16 records within a reasonable period of time as requested by the
19 17 ~~public government~~ body, the ~~public government~~ body shall make
19 18 no new investments with or through the fiduciary or other
19 19 third party and shall not renew existing investments upon
19 20 their maturity with or through the fiduciary or other third
19 21 party. The fiduciary or other third party shall be liable for
19 22 the penalties imposed under ~~section 22.6 statute, common law,~~
19 23 ~~or contract~~ due to the acts or omissions of the fiduciary or
19 24 other third party ~~and any other remedies available under~~
19 25 ~~statute, common law, or contract.~~
19 26 Sec. 30. NEW SECTION. 23.1 CITATION AND PURPOSE.
19 27 This chapter may be cited as the "Iowa Public Information
19 28 Board Act". The purpose of this chapter is to provide an
19 29 alternative means by which to secure compliance with and
19 30 enforcement of the requirements of chapters 21 and 22.
19 31 Sec. 31. NEW SECTION. 23.2 DEFINITIONS.
19 32 1. "Board" means the Iowa public information board created
19 33 in section 23.3.
19 34 2. "Complainant" means a person who files a complaint with
19 35 the board.
20 1 3. "Complaint" means a written and signed document filed
20 2 with the board alleging a violation of chapter 21 or 22.
20 3 4. "Custodian" means a government body, government
20 4 official, or government employee designated as the lawful
20 5 custodian of a government record pursuant to section 22.1.
20 6 5. "Government body" means the same as defined in section
20 7 22.1.
20 8 6. "Person" means an individual, partnership, association,
20 9 corporation, legal representative, trustee, receiver,
20 10 custodian, government body, or official, employee, agency, or
20 11 political subdivision of this state.
20 12 7. "Respondent" means any agency or other unit of state or
20 13 local government, custodian, government official, or
20 14 government employee who is the subject of a complaint.
20 15 Sec. 32. NEW SECTION. 23.3 BOARD APPOINTED.
20 16 1. An Iowa public information board is created consisting
20 17 of five members appointed by the governor, subject to
20 18 confirmation by the senate. Membership shall be balanced as
20 19 to political affiliation as provided in section 69.16 and
20 20 gender as provided in section 69.16A. Members appointed to
20 21 the board shall serve staggered, four-year terms, beginning
20 22 and ending as provided by section 69.19. A quorum shall
20 23 consist of three members.
20 24 2. A vacancy on the board shall be filled by the governor
20 25 by appointment for the unexpired part of the term. A board
20 26 member may be removed from office by the governor for good
20 27 cause. The board shall select one of its members to serve as
20 28 chair and shall employ a director who shall serve as the
20 29 executive officer of the board.
20 30 Sec. 33. NEW SECTION. 23.4 COMPENSATION AND EXPENSES.
20 31 Board members shall be paid a per diem as specified in
20 32 section 7E.6 and shall be reimbursed for actual and necessary
20 33 expenses incurred while on official board business. Per diem
20 34 and expenses shall be paid from funds appropriated to the
20 35 board.
21 1 Sec. 34. NEW SECTION. 23.5 ELECTION OF REMEDIES.

21 2 1. An aggrieved person, any taxpayer to or citizen of this
21 3 state, the attorney general, or any county attorney may seek
21 4 enforcement of the requirements of chapters 21 and 22 by
21 5 electing either to file an action pursuant to section 17A.19,
21 6 21.6, or 22.10, whichever is applicable, or in the
21 7 alternative, to file a timely complaint with the board.

21 8 2. If more than one person seeks enforcement of chapter 21
21 9 or 22 with respect to the same incident involving an alleged
21 10 violation, and one or more of such persons elects to do so by
21 11 filing an action under section 17A.19, 21.6, or 22.10 and one
21 12 or more of such persons elects to do so by filing a timely
21 13 complaint with the board, the court in which the action was
21 14 filed shall dismiss the action without prejudice, authorizing
21 15 the complainant to file a complaint with respect to the same
21 16 incident with the board without regard to the timeliness of
21 17 the filing of the complaint at the time the action in court is
21 18 dismissed.

21 19 3. If a person files an action pursuant to section 22.8
21 20 seeking to enjoin the inspection of a public record, the
21 21 respondent may remove the proceeding to the board for its
21 22 determination by filing, within thirty days of the
21 23 commencement of the judicial proceeding, a complaint with the
21 24 board alleging a violation of chapter 22 in regard to the same
21 25 matter.

21 26 Sec. 35. NEW SECTION. 23.6 BOARD POWERS AND DUTIES.

21 27 The board shall have all of the following powers and
21 28 duties:

21 29 1. Employ such employees as are necessary to execute its
21 30 authority, including administrative law judges, and attorneys
21 31 to prosecute respondents in proceedings before the board and
21 32 to represent the board in proceedings before a court.
21 33 Notwithstanding section 8A.412, all of the board's employees,
21 34 except for the executive director and attorneys, shall be
21 35 employed subject to the merit system provisions of chapter 8A,
22 1 subchapter IV.

22 2 2. Adopt rules with the force of law pursuant to chapter
22 3 17A calculated to implement, enforce, and interpret the
22 4 requirements of chapters 21 and 22 and to implement any
22 5 authority delegated to the board by this chapter.

22 6 3. Issue, consistent with the requirements of section
22 7 17A.9, declaratory orders with the force of law determining
22 8 the applicability of chapter 21 or 22 to specified fact
22 9 situations.

22 10 4. Receive complaints alleging violations of chapter 21 or
22 11 22, seek resolution of such complaints through informal
22 12 assistance or through mediation and settlement, formally
22 13 investigate such complaints, decide after such an
22 14 investigation whether there is probable cause to believe a
22 15 violation of chapter 21 or 22 has occurred, and if probable
22 16 cause has been found prosecute the respondent before the board
22 17 in a contested case proceeding conducted according to the
22 18 provisions of chapter 17A.

22 19 5. Request and receive from a government body assistance
22 20 and information as necessary in the performance of its duties.
22 21 The board may examine a record of a government body that is
22 22 the subject matter of a complaint, including any record that
22 23 is confidential by law. Confidential records provided to the
22 24 board by a governmental body shall continue to maintain their
22 25 confidential status. Any member or employee of the board is
22 26 subject to the same policies and penalties regarding the
22 27 confidentiality of the document as an employee of the
22 28 government body.

22 29 6. Issue subpoenas enforceable in court for the purpose of
22 30 investigating complaints and to facilitate the prosecution and
22 31 conduct of contested cases before the board.

22 32 7. After appropriate board proceedings, issue orders with
22 33 the force of law, determining whether there has been a
22 34 violation of chapter 21 or 22, requiring compliance with
22 35 specified provisions of those chapters, imposing civil
23 1 penalties equivalent to and to the same extent as those
23 2 provided for in section 21.6 or 22.10, as applicable, on a
23 3 respondent who has been found in violation of chapter 21 or
23 4 22, and imposing any other appropriate remedies calculated to
23 5 declare, terminate, or remediate any violation of those
23 6 chapters.

23 7 8. Represent itself in judicial proceedings to enforce or
23 8 defend its orders and rules through attorneys on its own
23 9 staff, through the office of the attorney general, or through
23 10 other attorneys retained by the board, at its option.

23 11 9. Make training opportunities available to lawful
23 12 custodians, government bodies, and other persons subject to

23 13 the requirements of chapters 21 and 22 and require, in its
23 14 discretion, appropriate persons who have responsibilities in
23 15 relation to chapters 21 and 22 to receive periodic training
23 16 approved by the board.

23 17 10. Disseminate information calculated to inform members
23 18 of the public about the public's right to access government
23 19 information in this state including procedures to facilitate
23 20 this access and including information relating to the
23 21 obligations of government bodies under chapter 21 and lawful
23 22 custodians under chapter 22 and other laws dealing with this
23 23 subject.

23 24 11. Prepare and transmit to the governor and to the
23 25 general assembly, at least annually, reports describing
23 26 complaints received, board proceedings, investigations,
23 27 hearings conducted, decisions rendered, and other work
23 28 performed by the board.

23 29 12. Make recommendations to the general assembly proposing
23 30 legislation relating to public access to government
23 31 information deemed desirable by the board in light of the
23 32 policy of this state to provide as much public access as
23 33 possible to government information as is consistent with the
23 34 public interest and the need to protect individuals against
23 35 undue invasions of personal privacy.

24 1 Sec. 36. NEW SECTION. 23.7 FILING OF COMPLAINTS WITH THE
24 2 BOARD.

24 3 1. The board shall adopt rules with the force of law and
24 4 pursuant to chapter 17A providing for the timing, form,
24 5 content, and means by which any aggrieved person, any taxpayer
24 6 to or citizen of this state, the attorney general, or any
24 7 county attorney may file a complaint with the board alleging a
24 8 violation of chapter 21 or 22. The complaint must be filed
24 9 within sixty days from the time the alleged violation occurred
24 10 or the complainant could have become aware of the violation
24 11 with reasonable diligence.

24 12 2. All board proceedings in response to the filing of a
24 13 complaint shall be conducted as expeditiously as possible.

24 14 3. The board shall not charge a complainant any fee in
24 15 relation to the filing of a complaint, the processing of a
24 16 complaint, or any board proceeding or judicial proceeding
24 17 resulting from the filing of a complaint.

24 18 Sec. 37. NEW SECTION. 23.8 INITIAL PROCESSING OF
24 19 COMPLAINT.

24 20 Upon receipt of a complaint alleging a violation of chapter
24 21 21 or 22, the board shall do either of the following:

24 22 1. Determine that, on its face, the complaint is within
24 23 the board's jurisdiction, appears legally sufficient, and
24 24 could have merit. In such a case the board shall accept the
24 25 complaint, and shall notify the parties of that fact in
24 26 writing.

24 27 2. Determine that, on its face, the complaint is outside
24 28 its jurisdiction, is legally insufficient, is without merit,
24 29 or relates to a specific incident that has previously been
24 30 finally disposed of on its merits by the board or a court. In
24 31 such a case the board shall decline to accept the complaint.
24 32 If the board refuses to accept a complaint, the board shall
24 33 provide the complainant with a written order explaining its
24 34 reasons for the action.

24 35 Sec. 38. NEW SECTION. 23.9 INFORMAL ASSISTANCE ==
25 1 MEDIATION AND SETTLEMENT.

25 2 1. After accepting a complaint, the board shall offer the
25 3 parties an opportunity to resolve the dispute through
25 4 mediation and settlement if the board determines that the
25 5 matter is unlikely to be resolved with the prompt informal
25 6 assistance of a board employee.

25 7 2. The mediation and settlement process shall enable the
25 8 complainant to attempt to resolve the dispute with the aid of
25 9 a neutral mediator employed and selected by the board, in its
25 10 discretion, from either its own staff or an outside source.

25 11 3. Mediation shall be conducted as an informal,
25 12 nonadversarial process and in a manner calculated to help the
25 13 parties reach a mutually acceptable and voluntary settlement
25 14 agreement. The mediator shall assist the parties in
25 15 identifying issues and shall foster joint problem solving and
25 16 the exploration of settlement alternatives.

25 17 Sec. 39. NEW SECTION. 23.10 ENFORCEMENT.

25 18 1. If any party declines mediation or settlement or if
25 19 mediation or settlement fails to resolve the matter to the
25 20 satisfaction of all parties, the board shall initiate a formal
25 21 investigation concerning the facts and circumstances set forth
25 22 in the complaint. The board shall, after an appropriate
25 23 investigation, make a determination as to whether the

25 24 complaint is within the board's jurisdiction and whether there
25 25 is probable cause to believe that the facts and circumstances
25 26 alleged in the complaint constitute a violation of chapter 21
25 27 or 22.

25 28 2. If the board finds the complaint is outside the board's
25 29 jurisdiction or there is no probable cause to believe there
25 30 has been a violation of chapter 21 or 22, the board shall
25 31 issue a written order explaining the reasons for the board's
25 32 conclusions and dismissing the complaint, and shall transmit a
25 33 copy to the complainant and to the party against whom the
25 34 complaint was filed.

25 35 3. a. If the board finds the complaint is within the
26 1 board's jurisdiction and there is probable cause to believe
26 2 there has been a violation of chapter 21 or 22, the board
26 3 shall issue a written order to that effect and shall commence
26 4 a contested case proceeding under chapter 17A against the
26 5 respondent. An attorney selected by the director of the board
26 6 shall prosecute the respondent in the contested case
26 7 proceeding. At the termination of the contested case
26 8 proceeding the board shall, by a majority vote of its members,
26 9 render a final decision as to the merits of the complaint. If
26 10 the board finds that the complaint has merit, the board may
26 11 issue any appropriate order to ensure enforcement of chapter
26 12 21 or 22 including but not limited to an order requiring
26 13 specified action or prohibiting specified action and any
26 14 appropriate order to remedy any failure of the respondent to
26 15 observe any provision of those chapters.

26 16 b. If the board determines, by a majority vote of its
26 17 members, that the respondent has violated chapter 21 or 22,
26 18 the board may also do any or all of the following:

26 19 (1) Require the respondent to pay damages as provided for
26 20 in section 21.6 or 22.10, whichever is applicable, to the
26 21 extent that provision would make such damages payable if the
26 22 complainant had sought to enforce a violation in court instead
26 23 of through the board.

26 24 (2) Void any action taken in violation of chapter 21 if a
26 25 court would be authorized to do so in similar circumstances
26 26 pursuant to section 21.6.

26 27 c. The board shall not have the authority to remove a
26 28 person from public office for a violation of chapter 21 or 22.
26 29 The board may file an action under chapter 21 or 22 to remove
26 30 a person from office for violations that would subject a
26 31 person to removal under those chapters.

26 32 d. A final board order resulting from such proceedings may
26 33 be enforced by the board in court and is subject to judicial
26 34 review pursuant to section 17A.19.

26 35 Sec. 40. NEW SECTION. 23.11 DEFENSES IN A CONTESTED CASE
27 1 PROCEEDING.

27 2 A respondent may defend against a proceeding before the
27 3 board charging a violation of chapter 21 or 22 on the ground
27 4 that if such a violation occurred it was only harmless error
27 5 or that clear and convincing evidence demonstrated that
27 6 grounds existed to justify a court to issue an injunction
27 7 against disclosure pursuant to section 22.8.

27 8 Sec. 41. NEW SECTION. 23.12 JURISDICTION.

27 9 The board shall not have jurisdiction over the judicial or
27 10 legislative branches of state government or any agency,
27 11 officer, or employee of those branches, or over the governor
27 12 or the office of the governor.

27 13 Sec. 42. Section 34A.7A, subsection 4, Code Supplement
27 14 2007, is amended to read as follows:

27 15 4. The amount collected from a wireless service provider
27 16 and deposited in the fund, pursuant to section 22.7,
27 17 subsection 6, information provided by a wireless service
27 18 provider to the program manager consisting of trade secrets,
27 19 pursuant to section 22.7, subsection 3, and other financial or
27 20 commercial operations information provided by a wireless
27 21 service provider to the program manager, shall be ~~kept~~
27 22 ~~confidential~~ an optional public record as provided under
27 23 section 22.7. This subsection does not prohibit the inclusion
27 24 of information in any report providing aggregate amounts and
27 25 information which does not identify numbers of accounts or
27 26 customers, revenues, or expenses attributable to an individual
27 27 wireless communications service provider.

27 28 Sec. 43. Section 68B.32B, subsection 11, Code Supplement
27 29 2007, is amended to read as follows:

27 30 11. A complaint shall be a public record, but some or all
27 31 of the contents may be treated as ~~confidential~~ an optional
27 32 public record under section 22.7, subsection 18, to the extent
27 33 necessary under subsection 3 of this section. Information
27 34 informally reported to the board and board staff which results

27 35 in a board-initiated investigation shall be a public record
28 1 but may be treated as ~~confidential information~~ an optional
28 2 public record consistent with the provisions of section 22.7,
28 3 subsection 18. If the complainant, the person who provides
28 4 information to the board, or the person who is the subject of
28 5 an investigation publicly discloses the existence of an
28 6 investigation, the board may publicly confirm the existence of
28 7 the disclosed formal complaint or investigation and, in the
28 8 board's discretion, make the complaint or the informal
28 9 referral public, as well as any other documents that were
28 10 issued by the board to any party to the investigation.
28 11 However, investigative materials may be furnished to the
28 12 appropriate law enforcement authorities by the board at any
28 13 time. Upon the commencement of a contested case proceeding by
28 14 the board, all investigative material relating to that
28 15 proceeding shall be made available to the subject of the
28 16 proceeding. The entire record of any contested case
28 17 proceeding initiated under this section shall be a public
28 18 record.

28 19 Sec. 44. Section 76.11, Code 2007, is amended to read as
28 20 follows:

28 21 76.11 CONFIDENTIALITY OF BOND HOLDERS == EXCEPTIONS.

28 22 Records of identity of owners of public bonds or
28 23 obligations maintained as provided in section 76.10 or by the
28 24 issuer of the bonds are ~~confidential~~ optional public records
28 25 ~~entitled to protection~~ under section 22.7, subsection 17-
28 26 However, and the issuer of the bonds or a state or federal
28 27 agency may obtain information as necessary.

28 28 Sec. 45. Section 124.553, subsection 3, Code Supplement
28 29 2007, is amended to read as follows:

28 30 3. Information contained in the program and any
28 31 information obtained from it, and information contained in the
28 32 records of requests for information from the program, is
28 33 privileged and strictly confidential information. Such
28 34 information is ~~a confidential~~ an optional public record
28 35 pursuant to section 22.7, and is not subject to discovery,
29 1 subpoena, or other means of legal compulsion for release
29 2 except as provided in this division. Information from the
29 3 program shall not be released, shared with an agency or
29 4 institution, or made public except as provided in this
29 5 division.

29 6 Sec. 46. Section 135.43, subsection 7, paragraphs a and b,
29 7 Code Supplement 2007, are amended to read as follows:

29 8 a. The Iowa department of public health and the department
29 9 of human services shall adopt rules providing for disclosure
29 10 of optional public record information ~~which is confidential~~
29 11 under chapter 22 or any confidential record information under
29 12 any other provision of state law, to the review team for
29 13 purposes of performing its child death and child abuse review
29 14 responsibilities.

29 15 b. A person in possession or control of medical,
29 16 investigative, assessment, or other information pertaining to
29 17 a child death and child abuse review shall allow the
29 18 inspection and reproduction of the information by the
29 19 department upon the request of the department, to be used only
29 20 in the administration and for the duties of the Iowa child
29 21 death review team. Except as provided for a report on a child
29 22 fatality by an ad hoc child fatality review committee under
29 23 subsection 4, information and records produced under this
29 24 section which are ~~confidential~~ optional public records under
29 25 section 22.7 and confidential records under chapter 235A, and
29 26 information or records received from the confidential records,
29 27 remain confidential under this section. A person does not
29 28 incur legal liability by reason of releasing information to
29 29 the department as required under and in compliance with this
29 30 section.

29 31 Sec. 47. Section 147A.26, subsection 2, Code 2007, is
29 32 amended to read as follows:

29 33 2. The data collected by and furnished to the department
29 34 pursuant to this section are ~~confidential~~ optional public
29 35 records of the condition, diagnosis, care, or treatment of
30 1 patients or former patients, including outpatients, pursuant
30 2 to section 22.7. The compilations prepared for release or
30 3 dissemination from the data collected are not confidential
30 4 under section 22.7, subsection 2. However, information which
30 5 individually identifies patients shall not be disclosed and
30 6 state and federal law regarding patient confidentiality shall
30 7 apply.

30 8 Sec. 48. Section 202A.2, subsection 3, paragraph b, Code
30 9 2007, is amended to read as follows:

30 10 b. The department, in consultation with the office of

30 11 attorney general, shall designate information in purchase
30 12 reports that reveals the identity of a packer or livestock
30 13 seller as ~~confidential~~ optional public records pursuant to
30 14 section 22.7.

30 15 Sec. 49. Section 232.149, subsection 2, Code 2007, is
30 16 amended to read as follows:

30 17 2. Records and files of a criminal or juvenile justice
30 18 agency concerning a child involved in a delinquent act are
30 19 public records, except that release of criminal history data,
30 20 intelligence data, and law enforcement investigatory files is
30 21 subject to the provisions of section 22.7 and chapter 692, and
30 22 juvenile court social records, as defined in section 232.2,
30 23 subsection 31, shall be deemed ~~confidential~~ optional public
30 24 record criminal identification files under section 22.7,

30 25 subsection 9. The records are subject to sealing under
30 26 section 232.150 unless the juvenile court waives its
30 27 jurisdiction over the child so that the child may be
30 28 prosecuted as an adult for a public offense.

30 29 Sec. 50. Section 252B.24, subsection 3, Code 2007, is
30 30 amended to read as follows:

30 31 3. The records of the state case registry are ~~confidential~~
30 32 optional public records pursuant to chapter 22 and may only be
30 33 disclosed or used as provided in section 252B.9.

30 34 Sec. 51. Section 252G.5, unnumbered paragraph 1, Code
30 35 2007, is amended to read as follows:

31 1 The records of the centralized employee registry are
31 2 confidential records pursuant to ~~sections 22.7 and section~~
31 3 252B.9, and may be accessed only by state agencies as provided
31 4 in this section and section 252B.9. When a state agency
31 5 accesses information in the registry, the agency may use the
31 6 information to update the agency's own records. Access to and
31 7 use of the information contained in the registry shall be
31 8 limited to the following:

31 9 Sec. 52. Section 321.189A, subsection 6, Code 2007, is
31 10 amended to read as follows:

31 11 6. The department shall keep ~~as confidential public~~
31 12 ~~records under section 22.7,~~ all records regarding licenses
31 13 issued under this section as optional public records under
31 14 section 22.7.

31 15 Sec. 53. Section 452A.33, subsection 1, paragraph d, Code
31 16 2007, is amended to read as follows:

31 17 d. The information included in a report submitted by a
31 18 retail dealer is deemed to be a trade secret, ~~protected as a~~
31 19 ~~confidential record and is an optional public record~~ pursuant
31 20 to section 22.7.

31 21 Sec. 54. Section 452A.33, subsection 2, paragraph c, Code
31 22 2007, is amended to read as follows:

31 23 c. The report shall not provide information regarding
31 24 motor fuel or biofuel which is sold and dispensed by an
31 25 individual retail dealer or at a particular retail motor fuel
31 26 site. The report shall not include a trade secret ~~protected~~
31 27 ~~as a confidential record pursuant as referred to in~~ section
31 28 22.7.

31 29 Sec. 55. Section 455K.4, subsection 4, Code 2007, is
31 30 amended to read as follows:

31 31 4. Information that is disclosed under subsection 2,
31 32 paragraph "b", is confidential and is not subject to
31 33 disclosure under chapter 22. ~~A governmental entity,~~
31 34 ~~governmental employee, or governmental official who discloses~~
31 35 ~~information in violation of this subsection is subject to the~~
32 1 ~~penalty provided in section 22.6.~~

32 2 Sec. 56. Section 476.74, subsection 4, Code 2007, is
32 3 amended to read as follows:

32 4 4. VERIFIED COPIES REQUIRED. Every public utility shall
32 5 file with the board a verified copy of the contract or
32 6 arrangement referred to in this section, or a verified summary
32 7 of the unwritten contract or arrangement, and also of all the
32 8 contracts and arrangements or a verified summary of the
32 9 unwritten contracts or arrangements, whether written or
32 10 unwritten, entered into prior to July 1, 1989, and in force
32 11 and effect at that time. Any contract or agreement determined
32 12 by the board to be ~~a confidential~~ an optional public record
32 13 pursuant to section 22.7 shall be returned to the public
32 14 utility filing the ~~confidential~~ record within sixty days after
32 15 the contract or agreement is filed.

32 16 Sec. 57. Section 477A.7, subsection 3, paragraph b, Code
32 17 Supplement 2007, is amended to read as follows:

32 18 b. For purposes of this subsection, the number of
32 19 customers of a cable service provider or video service
32 20 provider shall be determined based on the relative number of
32 21 subscribers in that municipality at the end of the prior

32 22 calendar year as reported to the municipality by all incumbent
32 23 cable providers and holders of a certificate of franchise
32 24 authority. Any records showing the number of subscribers
32 25 shall be considered ~~confidential~~ optional public records
32 26 pursuant to section 22.7. The incumbent cable provider shall
32 27 provide to the municipality, on an annual basis, the
32 28 maintenance and support costs of the institutional network,
32 29 subject to an independent audit. A municipality acting under
32 30 this subsection shall notify and present a bill to competitive
32 31 cable service providers or competitive video service providers
32 32 for the amount of such support on an annual basis, beginning
32 33 one year after issuance of the certificate of franchise
32 34 authority. The annual institutional network support shall be
32 35 due and paid by the providers to the municipality in four
33 1 quarterly payments, not later than forty-five days after the
33 2 close of each quarter. The municipality shall reimburse the
33 3 incumbent cable provider for the amounts received from
33 4 competitive cable service providers or competitive video
33 5 service providers.

33 6 Sec. 58. Section 502.607, subsection 2, Code 2007, is
33 7 amended to read as follows:

33 8 2. ~~NONPUBLIC RECORDS~~ OPTIONAL PUBLIC RECORDS.

33 9 Notwithstanding chapter 22, the following records are ~~not~~
33 10 optional public records and are not available for public
33 11 examination under subsection 1:

33 12 a. A record obtained by the administrator in connection
33 13 with an audit or inspection under section 502.411, subsection
33 14 4, or an investigation under section 502.602.

33 15 b. A part of a record filed in connection with a
33 16 registration statement under sections 502.301 and 502.303
33 17 through 502.305 or a record under section 502.411, subsection
33 18 4, that contains trade secrets or confidential information if
33 19 the person filing the registration statement or report has
33 20 asserted a claim of confidentiality or privilege that is
33 21 authorized by law.

33 22 c. A record that is not required to be provided to the
33 23 administrator or filed under this chapter and is provided to
33 24 the administrator only on the condition that the record will
33 25 not be subject to public examination or disclosure.

33 26 d. A nonpublic record received from a person specified in
33 27 section 502.608, subsection 1.

33 28 e. Any social security number, residential address unless
33 29 used as a business address, and residential telephone number
33 30 unless used as a business telephone number, contained in a
33 31 record that is filed.

33 32 f. A record obtained by the administrator through a
33 33 designee that the administrator determines by rule or order
33 34 has been appropriately expunged from its own records by that
33 35 designee, if the administrator finds that such expungement is
34 1 in the public interest and does not impair investor
34 2 protection.

34 3 Sec. 59. Section 507.14, subsections 1 through 3, 5, and
34 4 6, Code Supplement 2007, are amended to read as follows:

34 5 1. A preliminary report of an examination of a domestic or
34 6 foreign insurer, and all notes, work papers, or other
34 7 documents related to an examination of an insurer are
34 8 ~~confidential~~ optional public records under chapter 22 except
34 9 when sought by the insurer to whom they relate, an insurance
34 10 regulator of another state, or the national association of
34 11 insurance commissioners, and shall be privileged and
34 12 confidential in any judicial or administrative proceeding
34 13 except any of the following:

34 14 a. An action commenced by the commissioner under chapter
34 15 507C.

34 16 b. An administrative proceeding brought by the insurance
34 17 division under chapter 17A.

34 18 c. A judicial review proceeding under chapter 17A brought
34 19 by an insurer to whom the records relate.

34 20 d. An action or proceeding which arises out of the
34 21 criminal provisions of the laws of this state or the United
34 22 States.

34 23 e. An action brought in a shareholders' derivative suit
34 24 against an insurer.

34 25 f. An action brought to recover moneys or to recover upon
34 26 an indemnity bond for embezzlement, misappropriation, or
34 27 misuse of insurer funds.

34 28 2. A report of an examination of a domestic or foreign
34 29 insurer which is preliminary under the rules of the division
34 30 is ~~a confidential~~ an optional public record under chapter 22
34 31 except when sought by the insurer to which the report relates
34 32 or an insurance regulator of another state, and is privileged

34 33 and confidential in any judicial or administrative proceeding.
34 34 3. All work papers, notes, recorded information,
34 35 documents, market conduct annual statements, and copies
35 1 thereof that are produced or obtained by or disclosed to the
35 2 commissioner or any other person in the course of analysis by
35 3 the commissioner of the financial condition or market conduct
35 4 of an insurer are ~~confidential~~ optional public records under
35 5 chapter 22 and shall be privileged and confidential in any
35 6 judicial or administrative proceeding except any of the
35 7 following:

35 8 a. An action commenced by the commissioner under chapter
35 9 507C.

35 10 b. An administrative proceeding brought by the insurance
35 11 division under chapter 17A.

35 12 c. A judicial review proceeding under chapter 17A brought
35 13 by an insurer to whom the records relate.

35 14 d. An action or proceeding which arises out of the
35 15 criminal provisions of the laws of this state or the United
35 16 States.

35 17 5. A financial statement filed by an employer
35 18 self-insuring workers' compensation liability pursuant to
35 19 section 87.11, or the working papers of an examiner or the
35 20 division in connection with calculating appropriate security
35 21 and reserves for the self-insured employer are ~~confidential~~
35 22 optional public records under chapter 22 except when sought by
35 23 the employer to which the financial statement or working
35 24 papers relate or an insurance or workers' compensation
35 25 self-insurance regulator of another state, and are privileged
35 26 and confidential in any judicial or administrative proceeding.
35 27 The financial information of a nonpublicly traded employer
35 28 which self-insures for workers' compensation liability
35 29 pursuant to section 87.11 is protected as proprietary trade
35 30 secrets to the extent consistent with the commissioner's
35 31 duties to oversee the security of self-insured workers'
35 32 compensation liability.

35 33 6. Analysis notes, work papers, or other documents related
35 34 to the analysis of an insurer are ~~confidential~~ optional public
35 35 records under chapter 22.

36 1 Sec. 60. Section 507A.4, subsection 10, paragraph b, Code
36 2 Supplement 2007, is amended to read as follows:

36 3 b. The sponsor of the health benefit plan shall file an
36 4 application for waiver from the provisions of this chapter
36 5 with the commissioner as prescribed by the commissioner and
36 6 shall file periodic statements and information as required by
36 7 the commissioner. The commissioner shall adopt rules pursuant
36 8 to chapter 17A implementing this subsection. All statements
36 9 and information filed with or disclosed to the commissioner
36 10 pursuant to this subsection are ~~confidential~~ optional public
36 11 records pursuant to chapter 22.

36 12 Sec. 61. Section 507E.5, subsection 1, Code 2007, is
36 13 amended to read as follows:

36 14 1. All investigation files, investigation reports, and all
36 15 other investigative information in the possession of the
36 16 bureau are confidential records ~~under chapter 22~~ except as
36 17 specifically provided in this section and are not subject to
36 18 discovery, subpoena, or other means of legal compulsion for
36 19 their release until opened for public inspection by the
36 20 bureau, or upon the consent of the bureau, or until a court of
36 21 competent jurisdiction determines, after notice to the bureau
36 22 and hearing, that the bureau will not be unnecessarily
36 23 hindered in accomplishing the purposes of this chapter by
36 24 their opening for public inspection. However, investigative
36 25 information in the possession of the bureau may be disclosed,
36 26 in the commissioner's discretion, to appropriate licensing
36 27 authorities within this state, another state or the District
36 28 of Columbia, or a territory or country in which a licensee is
36 29 licensed or has applied for a license.

36 30 Sec. 62. Section 515.103, subsection 6, paragraph b, Code
36 31 Supplement 2007, is amended to read as follows:

36 32 b. Information filed with the commissioner of insurance
36 33 pursuant to this subsection shall be considered a confidential
36 34 record and be recognized ~~and protected~~ as a trade secret
36 35 pursuant to section 22.7, subsection 3.

37 1 Sec. 63. Section 523A.204, subsection 3, Code Supplement
37 2 2007, is amended to read as follows:

37 3 3. All records maintained by the commissioner under this
37 4 section shall be ~~confidential~~ optional public records pursuant
37 5 to section 22.7, subsection 58, and shall not be made
37 6 available for inspection or copying except upon the approval
37 7 of the commissioner or the attorney general.

37 8 Sec. 64. Section 523A.502A, subsection 2, Code Supplement

37 9 2007, is amended to read as follows:

37 10 2. All records maintained by the commissioner under this
37 11 section shall be ~~confidential~~ optional public records pursuant
37 12 to section 22.7, subsection 58, and shall not be made
37 13 available for inspection or copying except upon the approval
37 14 of the commissioner or the attorney general.

37 15 Sec. 65. Section 523C.23, subsection 1, paragraph c,
37 16 unnumbered paragraph 1, Code 2007, is amended to read as
37 17 follows:

37 18 Information obtained in the course of an investigation ~~is~~
~~37 19 confidential shall be treated as an optional public record as~~
37 20 provided in section 22.7. However, upon a determination that
37 21 disclosure of the information is necessary or appropriate in
37 22 the public interest or for the protection of consumers, the
37 23 commissioner may do any of the following:

37 24 Sec. 66. Section 556.24A, subsection 2, Code Supplement
37 25 2007, is amended to read as follows:

37 26 2. Notwithstanding any other provision of law, any other
37 27 identifying information set forth in any report, record,
37 28 claim, or other document submitted to the treasurer of state
37 29 pursuant to this chapter concerning unclaimed or abandoned
37 30 property ~~is a confidential~~ shall be treated as an optional
~~37 31 public~~ record as provided in section 22.7 and shall be made
37 32 available for public examination or copying only in the
37 33 discretion of the treasurer.

37 34 Sec. 67. Section 602.6111, subsection 3, Code 2007, is
37 35 amended by striking the subsection and inserting in lieu
38 1 thereof the following:

38 2 3. The supreme court may prescribe rules requiring
38 3 confidentiality of certain categories of material in records
38 4 maintained by the courts. The rules prescribed pursuant to
38 5 this subsection may specify the manner and format in which
38 6 such confidential information is to be provided to a clerk of
38 7 court, authorize the degree and nature of the disclosure of
38 8 such confidential information to specified classes of persons,
38 9 and indicate the manner and format in which such confidential
38 10 information is stored and disclosed to appropriate persons by
38 11 the clerk of court. Rules prescribed by the supreme court
38 12 pursuant to this subsection shall prevail over any other
38 13 conflicting state laws, including but not limited to chapter
38 14 22, and administrative rules. Copies of any such rules shall
38 15 be transmitted to the general assembly when adopted by the
38 16 supreme court.

38 17 Sec. 68. Section 692.8A, subsection 4, Code Supplement
38 18 2007, is amended to read as follows:

38 19 4. An intelligence assessment and intelligence data shall
38 20 be deemed a confidential record of the department ~~under~~
~~38 21 section 22.7, subsection 55,~~ except as otherwise provided in
38 22 this subsection. This section shall not be construed to
38 23 prohibit the dissemination of an intelligence assessment to
38 24 any agency or organization if necessary for carrying out the
38 25 official duties of the agency or organization, or to a person
38 26 if disseminated for an official purpose, and to a person if
38 27 necessary to protect a person or property from a threat of
38 28 imminent serious harm. This section shall also not be
38 29 construed to prohibit the department from disseminating a
38 30 public health and safety threat advisory or alert by press
38 31 release or other method of public communication.

38 32 Sec. 69. Section 692A.13, subsection 8, Code 2007, is
38 33 amended to read as follows:

38 34 8. Sex offender registry records are confidential records
38 35 ~~pursuant to section 22.7~~ and shall only be released as
39 1 provided in this section.

39 2 Sec. 70. Section 708.2B, unnumbered paragraph 2, Code
39 3 2007, is amended to read as follows:

39 4 District departments or contract service providers shall
39 5 receive upon request peace officers' investigative reports
39 6 regarding persons participating in programs under this
39 7 section. The receipt of reports under this section shall not
39 8 waive the confidentiality of the reports ~~under section 22.7.~~

39 9 Sec. 71. Section 716.6B, subsection 1, paragraph a, Code
39 10 2007, is amended to read as follows:

39 11 a. An aggravated misdemeanor if computer data is accessed
39 12 that contains ~~a confidential~~ an optional public record, as
39 13 defined in section 22.7, operational or support data of a
39 14 public utility, as defined in section 476.1, operational or
39 15 support data of a rural water district incorporated pursuant
39 16 to chapter 357A or 504, operational or support data of a
39 17 municipal utility organized pursuant to chapter 388 or 389,
39 18 operational or support data of a public airport, or a trade
39 19 secret, as defined in section 550.2.

39 20 Sec. 72. Section 907.4, Code 2007, is amended to read as
39 21 follows:

39 22 907.4 DEFERRED JUDGMENT DOCKET.

39 23 A deferment of judgment under section 907.3 shall be
39 24 entered promptly by the clerk of the district court, or the
39 25 clerk's designee, into the deferred judgment database of the
39 26 state, which shall serve as the deferred judgment docket. The
39 27 docket shall contain a permanent record of the deferred
39 28 judgment including the name and date of birth of the
39 29 defendant, the district court docket number, the nature of the
39 30 offense, and the date of the deferred judgment. Before
39 31 granting deferred judgment in any case, the court shall search
39 32 the deferred judgment docket and shall consider any prior
39 33 record of a deferred judgment against the defendant. The
39 34 permanent record provided for in this section is *

~~39 35 confidential an optional public record exempted from public~~
40 1 access under section 22.7 and shall be available only to
40 2 justices of the supreme court, judges of the court of appeals,
40 3 district judges, district associate judges, judicial
40 4 magistrates, clerks of the district court, judicial district
40 5 departments of correctional services, county attorneys, and
40 6 the department of corrections requesting information pursuant
40 7 to this section, or the designee of a justice, judge,
40 8 magistrate, clerk, judicial district department of
40 9 correctional services, or county attorney, or department.

40 10 Sec. 73. Section 915.90, unnumbered paragraph 1, Code
40 11 2007, is amended to read as follows:

40 12 A person in possession or control of investigative or other
40 13 information pertaining to an alleged crime or a victim filing
40 14 for compensation shall allow the inspection and reproduction
40 15 of the information by the department upon the request of the
40 16 department, to be used only in the administration and
40 17 enforcement of the crime victim compensation program.
40 18 Information and records which are ~~confidential optional public~~
~~40 19 records~~ under section 22.7 and information or records received
40 20 from ~~the confidential such~~ information or records remain
40 21 confidential under this section.

40 22 Sec. 74. Section 22.6, Code 2007, is repealed.

40 23 Sec. 75. EFFECTIVE DATE. Except for the section of this
40 24 Act establishing transition provisions for the Iowa public
40 25 information board, this Act takes effect July 1, 2009.

40 26 Sec. 76. IOWA PUBLIC INFORMATION BOARD == TRANSITION
40 27 PROVISIONS.

40 28 1. The initial members of the Iowa public information
40 29 board established pursuant to this Act shall be appointed by
40 30 September 1, 2008.

40 31 2. Notwithstanding any provision of this Act to the
40 32 contrary, the director of the board and employees of the board
40 33 shall not be hired prior to July 1, 2009.

40 34 3. Prior to July 1, 2009, the board shall submit a report
40 35 to the governor and the general assembly. The report shall
41 1 include a job description for the executive director of the
41 2 board, goals for board operations, and performance measures to
41 3 measure achievement of the board's goals.

41 4 EXPLANATION

41 5 This bill relates to Iowa's Open Meetings Law (Code chapter
41 6 21) and Iowa's Open Records Law (Code chapter 22).

41 7 DEFINITION OF MEETING. The bill expands the definition of
41 8 "meeting" to include the calculated use of a series of
41 9 communications, each between less than a majority of the
41 10 members of a governmental body or their personal
41 11 intermediaries that is intended to reach and does in fact
41 12 reach a majority of the members and that is intended to
41 13 discuss and develop a collective final decision of a majority
41 14 outside of a meeting with respect to specific action to be
41 15 taken by the majority at a meeting. The bill specifies that a
41 16 "meeting" does not include written electronic communications
41 17 by one or more members of a governmental body or by its chief
41 18 executive officer that are ordinarily preserved and are
41 19 accessible and that are sent to a majority of the members of
41 20 the governmental body, or a series of such written electronic
41 21 communications each sent only to a minority of the members of
41 22 the governmental body but that in the aggregate are sent to a
41 23 majority of the members, that both concern a particular matter
41 24 within the scope of the governmental body's policymaking
41 25 duties and would otherwise constitute a meeting, if the
41 26 written electronic communications, to the extent such
41 27 communications are not exempt from disclosure, are either
41 28 posted on the governmental body's internet site or public
41 29 bulletin board prior to the next regular meeting or copies are
41 30 made available for public inspection at the governmental

41 31 body's next meeting. If a special meeting is held on the
41 32 subject matter of the communications before the next regular
41 33 meeting, the communications shall be posted prior to the
41 34 special meeting or made available for public inspection at
41 35 that meeting.

42 1 RECONVENED MEETINGS. The bill provides that except as
42 2 otherwise provided, a reconvened meeting of a governmental
42 3 body is also subject to the meeting notice requirements
42 4 pursuant to Code section 21.4. This requirement does not
42 5 apply to a meeting of a governmental body that is reconvened
42 6 within four hours of the start of its recess, where an
42 7 announcement of the time, date, and place of the reconvened
42 8 meeting is made at the original meeting in open session and
42 9 recorded in the minutes of the meeting and there is no change
42 10 in the agenda. The notice requirement also does not apply to
42 11 a meeting held by a formally constituted subunit of a parent
42 12 governmental body during a lawful meeting of the parent
42 13 governmental body or during a recess in that meeting of up to
42 14 four hours, or a meeting of that subunit immediately following
42 15 the meeting of the parent governmental body, if the meeting of
42 16 the subunit is publicly announced in open session at the
42 17 parent meeting and the subject of the meeting reasonably
42 18 coincides with the subjects discussed or acted upon by the
42 19 parent governmental body.

42 20 CIVIL AND CRIMINAL PENALTY PROVISIONS. The bill increases
42 21 the civil penalty damage amounts for violations of the open
42 22 meetings and public records laws for each member of the
42 23 governmental body or each person who participated in the
42 24 violation from not less than \$100 and not more than \$500 to
42 25 not less than \$1,000 and not more than \$2,500 subject to the
42 26 existing defenses contained in Code sections 21.6 and 22.10.

42 27 The bill repeals the criminal penalty provision for knowing
42 28 violations or attempts to violate any provisions of the public
42 29 records law.

42 30 RECORDS DEFINITIONS. The bill amends the terms used to
42 31 identify records and different classes of records under the
42 32 public records law.

42 33 The bill defines a "record" under Code chapter 22 to mean
42 34 information of every kind, nature, and form preserved or
42 35 stored in any medium including but not limited to paper,
43 1 electronic media, or film media. The bill also designates the
43 2 following categories of records in Code chapter 22:

43 3 1. "Government record" means a record owned by, created
43 4 by, in the possession of, or under the control of, any unit,
43 5 division, or part of state or local government or the
43 6 officials or employees of such bodies in the course of the
43 7 performance of their respective duties.

43 8 2. "Public record" means a government record which a
43 9 member of the public has an unqualified right to examine and
43 10 copy and includes a government record not designated by
43 11 statute as either a confidential record or an optional public
43 12 record.

43 13 3. "Confidential record" means a government record
43 14 designated by statute as unavailable for examination and
43 15 copying by a member of the public.

43 16 4. "Optional public record" means a government record
43 17 designated by statute as unavailable for examination and
43 18 copying by a member of the public unless otherwise ordered by
43 19 a court, by the lawful custodian of the records, or by another
43 20 person duly authorized to release such information.

43 21 The bill makes conforming changes throughout the Code based
43 22 upon the new identification terms for various classes of
43 23 records established in the bill for Code chapter 22. The
43 24 conforming terminology changes provide for a continuation of
43 25 the current public disclosure status of records. Additional
43 26 conforming changes to these and other Code provisions may be
43 27 necessary to fully implement the new identification terms for
43 28 various classes of records established by the bill.

43 29 RECORDS ACCESS == GOVERNMENT BODY CONTRACTS WITH
43 30 NONGOVERNMENT BODY. Current law provides that a government
43 31 body may not avoid application of the public records law by
43 32 contracting out any of its functions to a nongovernment person
43 33 or entity. The bill provides that a record created by, in the
43 34 possession of, or under the control of, any nongovernment body
43 35 or person which is a direct part of the execution or
44 1 performance of duties imposed upon the nongovernment body or
44 2 person by contract with a government body under which the
44 3 nongovernment body or person performs a function of the
44 4 government body is a government record. The lawful custodian
44 5 of such a government record is the government body with whom
44 6 the nongovernment body or person has executed the contract.

44 7 Consistent with this change, the bill makes a conforming
44 8 amendment relating to records involving charitable donations
44 9 and specifies that, unless otherwise provided, the lawful
44 10 custodian of all records relating to the receipt, holding, and
44 11 disbursement of gifts made for the benefit of regents
44 12 institutions and made through foundations established for the
44 13 support of regents institutions is the regents institution to
44 14 be benefited by such gifts.

44 15 RECORDS REQUESTS == TIME LIMITS. The bill provides that
44 16 upon receipt of an oral or written request to examine or copy
44 17 a public record, the lawful custodian shall, if feasible in
44 18 the ordinary course of business, permit such examination or
44 19 copying at the time of the request. If it is not feasible in
44 20 the ordinary course of business to permit examination or
44 21 copying of the public record at the time of the request, the
44 22 lawful custodian shall immediately notify the requester,
44 23 orally or in writing, when such examination or copying may
44 24 take place which shall be no later than five business days
44 25 from the time of the request unless there is good cause for
44 26 further delay. If further delay is necessary because of good
44 27 cause, the lawful custodian shall provide the requester with a
44 28 written statement detailing the reason or reasons for the
44 29 delay and the date by which the request will be satisfied. If
44 30 the lawful custodian is in doubt as to whether the record
44 31 requested is a public record or whether the requester should
44 32 be permitted to examine or copy a record specified in Code
44 33 section 22.7, the lawful custodian shall make that
44 34 determination within 10 business days from the date of the
44 35 request. Examination or copying of the record shall be
45 1 allowed within five business days from the date the lawful
45 2 custodian makes the decision to permit examination or copying
45 3 of the record unless there is good cause for further delay in
45 4 fulfilling the request. If the lawful custodian denies a
45 5 request to examine or copy a record, the custodian must
45 6 provide the requester at the time of the denial a written
45 7 statement denying the request and detailing the specific
45 8 reason or reasons for the denial. If the lawful custodian
45 9 does not fulfill a request to examine or copy a public record
45 10 within the time frames prescribed, the request shall be deemed
45 11 denied and the requester shall be entitled to file a complaint
45 12 with the Iowa public information board created in Code section
45 13 23.7 or may file a lawsuit against the lawful custodian
45 14 pursuant to Code section 22.10.

45 15 PERSONAL INFORMATION IN CONFIDENTIAL PERSONNEL RECORDS.
45 16 Current law provides that personal information in confidential
45 17 personnel records of government bodies shall be confidential,
45 18 unless otherwise ordered by a court, by the lawful custodian,
45 19 or by another duly authorized person to release such
45 20 information. The bill specifies that the name and
45 21 compensation of the individual, the date the individual was
45 22 employed by the government body, the positions the individual
45 23 holds or has held with the government body, the individual's
45 24 qualifications for the position that the individual holds or
45 25 has held including but not limited to educational background
45 26 and work experience, and any final disciplinary action taken
45 27 against the individual that resulted in the individual's
45 28 discharge, suspension, demotion, or loss of pay shall be
45 29 public records.

45 30 ADDITIONAL OPTIONAL PUBLIC RECORDS DESIGNATIONS. The bill
45 31 provides that the following records shall be confidential
45 32 unless otherwise ordered by a court, by the lawful custodian,
45 33 or by another duly authorized person:

45 34 1. PUBLIC EMPLOYMENT APPLICATIONS. The identity and
45 35 qualifications of an applicant for employment by a government
46 1 body if the applicant requests anonymity in writing and the
46 2 government body determines that anonymity is necessary to
46 3 induce the applicant to apply for the public employment
46 4 position shall be confidential. Such information shall be
46 5 exempt from disclosure until an applicant is considered by the
46 6 government body to be a finalist for a position in public
46 7 employment. "Finalist" means a person who is one of five or
46 8 fewer applicants under final consideration for a public
46 9 employment position. If there are five or fewer applicants
46 10 for the particular position, all of the applicants shall be
46 11 considered finalists. The identities and qualifications of
46 12 the finalists shall be made available for public inspection at
46 13 least three business days prior to the final decision.
46 14 Documents relating to a government body's evaluation of the
46 15 qualifications and merits of an applicant for employment by a
46 16 government body are also confidential records unless otherwise
46 17 released by the appropriate person.

46 18 2. MATERIAL INVADING PERSONAL PRIVACY. Material about and
46 19 linked to an identified or identifiable person that, if
46 20 disclosed to the general public, would constitute an
46 21 unwarranted or undue invasion of personal privacy or that
46 22 would present a clear and serious danger of facilitating
46 23 identity theft or other criminal activity in relation to that
46 24 person are confidential unless otherwise ordered by the
46 25 appropriate official. "Unwarranted or undue invasion of
46 26 personal privacy" means the public disclosure of particular
46 27 information about and linked to an identified or identifiable
46 28 person that is likely to subject such person to potential harm
46 29 of such person's personal privacy interests or personal
46 30 security interests that clearly outweighs any potential
46 31 benefit to the public interest from disclosure of such
46 32 information. Material about and linked to an identified or
46 33 identifiable person excluded from public inspection by the
46 34 bill includes but is not limited to social security numbers,
46 35 driver's license numbers, biometric data, credit card and bank
47 1 account numbers, and personal financial data other than the
47 2 compensation of a public official or a public employee and any
47 3 financial statements required to be filed by a public official
47 4 or public employee to avoid a conflict of interest. Material
47 5 exempted from public disclosure does not include information
47 6 about and linked to an identified or identifiable person
47 7 released by the lawful custodian with the person's written
47 8 consent or information relating to the performance of duties
47 9 by a public official or public employee.

47 10 3. TENTATIVE, PRELIMINARY, OR DRAFT MATERIALS. Tentative,
47 11 preliminary, draft, speculative, or research material, created
47 12 prior to its final completion for the purpose for which it is
47 13 intended and in a form prior to the form in which it is
47 14 submitted for use in the final formulation, recommendation,
47 15 adoption, or execution of any official policy or action by a
47 16 public official authorized to make such decisions for the
47 17 government body, are confidential unless ordered otherwise by
47 18 the appropriate official. Such materials shall be treated as
47 19 public record at the time they are actually used as the basis
47 20 for the final formulation, recommendation, adoption, or
47 21 execution of any official policy or action of a government
47 22 body.

47 23 4. CLOSED SESSION RECORDS. Records containing information
47 24 that would permit a governmental body subject to Code chapter
47 25 21 to hold a closed session pursuant to Code section 21.5 in
47 26 order to avoid public disclosure of that information.

47 27 INJUNCTION RESTRAINING EXAMINATION OF PUBLIC RECORDS.
47 28 Current law provides that, under specified circumstances, a
47 29 district court may grant an injunction restraining the
47 30 examination, including copying, of a specific public record or
47 31 a narrowly drawn class of public records. Such an injunction
47 32 may be issued only if the petition supported by affidavit
47 33 shows and if the court finds that the examination would
47 34 clearly not be in the public interest and that the examination
47 35 would substantially and irreparably injure any person or
48 1 persons. The bill amends this provision to provide that the
48 2 district court may grant an injunction upon a finding that the
48 3 examination would clearly not be in the public interest
48 4 because the potential harm to the public interest from
48 5 disclosure of the particular information involved clearly
48 6 outweighs any potential benefit to the public interest from
48 7 disclosure, or that the examination would substantially and
48 8 irreparably injure any person or persons because it would
48 9 invade the personal privacy of the identified subject of the
48 10 record and the harm to that person from such disclosure is not
48 11 outweighed by the public interest in its disclosure, or that
48 12 the record at issue is not a public record or that a
48 13 determination by the custodian to permit inspection of an
48 14 optional public record by one or more members of the public is
48 15 a violation of law or is arbitrary, capricious, unreasonable,
48 16 or an abuse of discretion.

48 17 SETTLEMENT AGREEMENTS. Code chapter 22 currently provides
48 18 that a written summary of the terms of settlement or other
48 19 disposition of any claim for damages made against any
48 20 government body or against an employee, officer, or agent of a
48 21 government body, by an insurer pursuant to a contract of
48 22 liability insurance issued to the governmental body, shall be
48 23 filed with the governmental body and shall be a public record.
48 24 The bill provides that all final binding settlement agreements
48 25 between any agency of this state or other unit or official of
48 26 such a government body that resolves a legal dispute between
48 27 such a government body and another person or entity shall
48 28 include a brief summary indicating the identity of the parties

48 29 involved, the nature of the dispute, any underlying relevant
48 30 facts that are agreed to by the parties and that are disputed
48 31 by the parties, and the terms of the settlement, and shall be
48 32 filed with the government body and shall be available for
48 33 public inspection.

48 34 TAX=EXEMPT BONDING AUTHORITY == 7C == MEETINGS AND RECORDS.

48 35 The bill provides that an entity eligible to exercise
49 1 tax-exempt bonding authority under Code chapter 7C designated
49 2 by the state to serve as a secondary market for student loans
49 3 and a nonprofit tax-exempt bonding authority under chapter 7C
49 4 whose board of directors is appointed by the governor is
49 5 subject to the provisions of the open meetings and open
49 6 records laws.

49 7 IOWA PUBLIC INFORMATION BOARD. The bill creates the Iowa
49 8 public information board to provide an alternative means by
49 9 which to secure compliance with and enforcement of the
49 10 requirements of Code chapters 21 and 22, to consist of five
49 11 members appointed by the governor, subject to confirmation by
49 12 the senate, to serve four-year staggered terms. The board
49 13 shall be balanced as to political affiliation and gender.
49 14 Vacancies on the board shall be filled by the governor by
49 15 appointment for the unexpired part of the term of the vacancy.
49 16 Any board member may be removed from office by the governor
49 17 for good cause. The board shall select one of its members to
49 18 serve as chair and shall hire a director who shall serve as
49 19 the executive officer of the board. Board members shall be
49 20 paid a per diem and shall be reimbursed for actual and
49 21 necessary expenses incurred while on official board business.
49 22 All per diem and expense moneys paid to board members shall be
49 23 paid from funds appropriated to the board. The board shall
49 24 not have jurisdiction over the judicial or legislative
49 25 branches of state government or any agency, officer, or
49 26 employee of those branches, or over the governor or the office
49 27 of the governor, but the bill does not alter the current
49 28 applicability of Code chapter 22 and the enforcement
49 29 mechanisms provided in Code chapter 22 to any of those bodies.

49 30 The bill provides that any aggrieved person, any taxpayer
49 31 to or citizen of the state of Iowa, the attorney general, or
49 32 any county attorney, may seek enforcement of the requirements
49 33 of Code chapters 21 and 22 by electing either to file an
49 34 action pursuant to Code section 17A.19, 21.6, or 22.9,
49 35 whichever is applicable, or in the alternative, to file a
50 1 timely complaint with the board. If more than one person
50 2 seeks enforcement of Code chapter 21 or 22 with respect to the
50 3 same incident involving an alleged violation, and one or more
50 4 of such persons elects to do so by filing an action under Code
50 5 section 17A.19, 21.6, or 22.9, and one or more of such persons
50 6 elects to do so by filing a timely complaint with the board,
50 7 the court in which the action was filed shall dismiss the
50 8 action without prejudice authorizing the complainant to file a
50 9 complaint with respect to that same incident with the board
50 10 without regard to the timeliness of the filing of that
50 11 complaint at the time the action in court is dismissed. If a
50 12 person files an action seeking to enjoin the inspection of a
50 13 public record, the respondent may remove the proceeding to the
50 14 board for its determination by filing, within 30 days of the
50 15 commencement of that judicial proceeding, a complaint with the
50 16 board alleging a violation of Code chapter 22 in regard to the
50 17 same matter.

50 18 The bill provides that the board shall have the authority
50 19 to employ such employees as are necessary to execute its
50 20 authority, adopt rules with the force of law, interpret the
50 21 requirements of Code chapters 21 and 22, implement any
50 22 authority delegated to the board, issue declaratory orders
50 23 with the force of law, receive complaints alleging violations
50 24 of Code chapter 21 or 22, seek resolution of such complaints
50 25 through mediation and settlement, formally investigate such
50 26 complaints, decide after such an investigation whether there
50 27 is probable cause to believe a violation of Code chapter 21 or
50 28 22 has occurred, and if probable cause has been found,
50 29 prosecute the respondent before the board in a contested case
50 30 proceeding conducted according to the provisions of Code
50 31 chapter 17A. The board shall also have the authority to issue
50 32 subpoenas enforceable in court, issue orders with the force of
50 33 law, represent itself in judicial proceedings, make training
50 34 opportunities available, disseminate information to inform the
50 35 public about the public's right to access government
51 1 information, prepare and transmit reports to the governor and
51 2 the general assembly, at least annually, describing complaints
51 3 received, board proceedings, investigations, hearings
51 4 conducted, decisions rendered, and other work performed by the

51 5 board, and make recommendations to the general assembly
51 6 concerning legislation relating to public information access.
51 7 The bill provides that a complaint must be filed within 60
51 8 days from the time the alleged violation occurred or the
51 9 complainant could have become aware of the violation with
51 10 reasonable diligence. The board shall not charge a
51 11 complainant any fee in relation to the filing of a complaint,
51 12 the processing of a complaint, or any board proceeding or
51 13 judicial proceeding resulting from the filing of a complaint.
51 14 The bill provides that upon receipt of a complaint, the
51 15 board shall either make a determination that, on its face, the
51 16 complaint is within the board's jurisdiction, appears legally
51 17 sufficient, and could have merit, in which case the board
51 18 shall accept the complaint, or make a determination that, on
51 19 its face, the complaint is outside the board's jurisdiction,
51 20 is legally insufficient, is without merit, or relates to a
51 21 specific incident that has previously been finally disposed of
51 22 on its merits by the board or a court, in which case the board
51 23 shall decline to accept the complaint. If the board declines
51 24 to accept the complaint, the board shall provide the
51 25 complainant with a written statement detailing the reasons for
51 26 the denial.

51 27 After accepting a complaint, and upon the board's
51 28 determination that the matter is unlikely to be resolved with
51 29 the prompt informal assistance of a board employee, the board
51 30 shall offer the parties the opportunity to resolve the dispute
51 31 through mediation and settlement which shall provide the
51 32 complainant the opportunity to resolve the dispute with the
51 33 aid of a neutral mediator employed and selected by the board.

51 34 If any party declines mediation or settlement or if
51 35 mediation or settlement fails to resolve the matter to the
52 1 satisfaction of all parties, the board shall initiate a formal
52 2 investigation concerning the facts and circumstances set forth
52 3 in the complaint. After investigation, the board shall make a
52 4 determination as to whether the complaint is within the
52 5 board's jurisdiction and whether there is probable cause to
52 6 believe that the complaint states a violation of Code chapter
52 7 21 or 22 and if the board finds the complaint is outside the
52 8 board's jurisdiction or there is not probable cause to believe
52 9 there has been a violation, the board shall issue a written
52 10 order explaining the reasons for the board's conclusions and
52 11 dismissing the complaint. If the board finds the complaint is
52 12 within the board's jurisdiction and there is probable cause to
52 13 believe there has been a violation, the board shall issue a
52 14 written order to that effect and shall commence a contested
52 15 case proceeding against the respondent. An attorney selected
52 16 by the director of the board shall prosecute the respondent in
52 17 the contested case proceeding. At the termination of the
52 18 contested case proceeding the board shall, by a majority vote
52 19 of its members, render a final decision as to the merits of
52 20 the complaint and issue any appropriate order to ensure
52 21 enforcement of Code chapter 21 or 22 or to remedy any failure
52 22 of the respondent to observe any provision of those Code
52 23 chapters. If the board determines, by a majority vote of its
52 24 members, that the respondent has violated Code chapter 21 or
52 25 22, the board may also require the respondent to pay damages
52 26 if such damages would be warranted under either Code chapter
52 27 and may void any action taken in violation of Code chapter 21.
52 28 The board does not have the authority to remove a person from
52 29 public office for a violation of Code chapter 21 or 22 but may
52 30 file an action under either Code chapter to remove a person
52 31 from office for violations that would subject a person to
52 32 removal under those Code chapters. A final board order
52 33 resulting from such proceedings may be enforced by the board
52 34 in court and is subject to judicial review pursuant to Code
52 35 section 17A.19.

53 1 A respondent may defend against a proceeding before the
53 2 board charging a violation of Code chapter 21 or 22 on the
53 3 ground that if such a violation occurred it was only harmless
53 4 error or that clear and convincing evidence demonstrated that
53 5 grounds existed to justify a court to issue an injunction
53 6 against disclosure.

53 7 The bill provides that the initial members of the board
53 8 shall be appointed by September 1, 2008, the director and
53 9 employees of the board shall not be hired prior to July 1,
53 10 2009, and the board shall submit a report to include a job
53 11 description for the executive director of the board, goals for
53 12 board operations, and performance measures for the board prior
53 13 to July 1, 2009.

53 14 COURT RULES. The bill provides that the Iowa supreme court
53 15 may prescribe prevailing rules requiring confidentiality of

53 16 certain categories of material in records maintained by the
53 17 courts.
53 18 EFFECTIVE DATE. Except as otherwise provided, the bill
53 19 takes effect July 1, 2009.
53 20 LSB 5233SV 82
53 21 rh/rj/14